

Protect Your Artwork

Art Law Tips & Tricks



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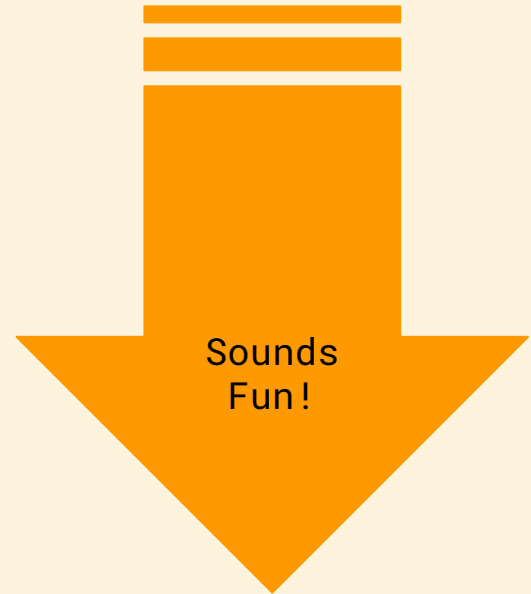
DISCLAIMER:

We are not lawyers! All information we share is our understanding of the laws from conversations we've had with lawyers and artist advocates.

We will provide resources to experts at the end.

Topics

1. Artist Attributions
2. Copyrights
3. Transactions with Clients
4. Art on Social Media
5. Actions
6. Resources





Why care?

Be a professional market participant when negotiating with third parties

Be well situated to enforce your rights if someone is infringing on your copyright or does not uphold an agreement

Artist Attribution / Maker's Marks



-Types / Examples

-Copyright Management Information Claim

What is a maker's mark?

This can be your name and title on your artwork, placed on or adjacent to your artwork, in a conspicuous and visible place

Why add one?

Eligibility for Attribution claim / Copyright Management Information claim

Examples:

Name & title on piece

Name & title on plinth of sculpture

Gutter credits

Metadata

Copyright



- Copyright registration
- How-to & tips
- What is protectable

Having a copyright vs. REGISTERING your copyright

WITHOUT registration	WITH registration
Limits you to: <ul style="list-style-type: none">-Actual damages-Infringer's profits	Eligible to seek: <ul style="list-style-type: none">-Up to \$150K in damages despite value of infringement-Lawyer fees

Tips:

- Grouping your copyright registration
- Register BEFORE your work is published
Publishing means listed publicly and/or online for sale and/or for licensing
- Photograph your work & register that too

Copyright Rejection:

- Procedural
- Substantive



You can register
at the
Copyright office:

<https://www.copyright.gov/registration/>



Protected:
Original works expressed
(the legal term is "fixed")
in a tangible form



NOT protected

- Ideas
- Commonly occurring shapes or materials
- Short phrases
- Fonts (including your handwriting)
- Colorways

Exemplary case to read:
Satava vs. Lowry

<https://caselaw.findlaw.com/us-9th-circuit/1169793.html>

Transactions with Clients



- Sales
- Types of licensing agreements
- Contracts / negotiations

Sales / “Assignment”

Copyright
transfer needs
to be in
writing

You can be protected
by contractual
limitations

Licensing



Type	Degree	Ways to Limit	Watch for
Full Assignment	least favorable for artists	you can't really :(you can be sued for using your work
Exclusive License	middle ground (if limited)	by timeframe	you can be sued if you use your work elsewhere
Limited Non-Exclusive License	most favorable for artists	-type of product -# of items -geographic area/ online -timeframe	



Be aware!

Contractions / negotiations:

-3rd party rights / Indemnity language

-Oral contracts

-Gallery representation timeframe & exclusivity

Art on Social Media



- Sublicensing
- Traps
- Protections

Traps

-DMs & likes
with legal
ramifications

Sublicensing

-Mashable &
Newsweek
cases

Steps to protect yourself online

- Make your account private
- Watermarks
- Gutter credits
- Stating you own copyright in caption or bio with "do not use without permission" language
- Put yourself in the photographs with your work (Publicity Claim)



Action!

-Lawyers

-Pitfalls

-Notices

DMCA:

-take-down notices

-<https://copyrightalliance.org/faqs/how-to-send-dmca-takedown-notice/>

Contact a
lawyer:
-resources
-free
consultations

Pitfalls:
-don't agree
to or accept
anything
-anything you
say can be
used against
you in court

Resources

Lawyers for the Arts by state

<https://law-arts.org/national-vla-directory>

Artist Guide to Copyrights by The Creative Independent

<https://thecreativeindependent.com/guides/an-artists-guide-to-copyrights/>

Copyright Registration

<https://www.copyright.gov/registration/>

DMCA

<https://copyrightalliance.org/faqs/how-to-send-dmca-takedown-notice/>

Cases

Satava vs. Lowry

<https://caselaw.findlaw.com/us-9th-circuit/1169793.html>

McGucken v. Newsweek, LLC,

<https://law.justia.com/cases/federal/district-courts/new-york/nysdce/1:2019cv09617/524753/35/>